

IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 459 of 2024

- 1.** Rajiv Kumar @ Rajeev Kumar, aged 23 years, son of deceased Bhola Poddar @ Podar
- 2.** Guddy Devi, aged 41 years, wife of deceased Bhola Poddar @ Podar
- 3.** Muskan Kumari, aged 20 years, daughter of deceased Bhola Poddar @ Podar
- 4.** Rekha Kumari, aged 16 years, daughter of deceased Bhola Poddar @ Podar
- 5.** Radha Kumari, aged 24 years, daughter of deceased Bhola Poddar @ Podar

Appellant No.4 being minor represented through appellant No.2 her mother and natural guardian

All residents of village – Dangal Para, PO and PS – Madhupur,
District – Deoghar, PIN 815353

.... Appellants

-- Versus --

Union of India, represented by the General Manager, Eastern
Railway, 3, Koilaghat Street, PO and PS – Garden Reach,
Kolkata, District – Kolkata (West Bengal)

.... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	:-	Mr. Rajesh Kr. Jha, Advocate
For Respondent	:-	Ms. Niki Sinha, Advocate

03/03.07.2025 Heard learned counsel appearing for the appellants and

learned counsel appearing for the respondent – railway.

2. This appeal has been preferred by the claimants whose claim have been rejected by learned Railway Claims Tribunal by judgment dated 13.02.2024 passed by learned Railway Claims Tribunal, Ranchi Bench, Ranchi in Case No.OA(IIU)/RNC/46/2023.

3. Learned counsel appearing for the appellants submits that the claimants filed the application before the learned Railway Claims Tribunal on 23.06.2023 stating that the deceased Bhola Poddar @ Podar left his house to travel from Madhupur to Baidhyanathdham on his valid 2nd class monthly railway ticket bearing No.11709042 (valid from 05.06.2022 to 04.07.2022) and railway I.card. On the same day, he was returning home in the evening from Baidyanathdham to Madhupur by Train No.63564 Jasidih-Asansol Memu Passenger Train on his valid ticket. During the journey, he was standing near the gate and due to sudden jerk and jostling amongst the passengers, he fell down at Lalgah DN line near Madhupur station and died on the spot. Original railway ticket was handed over to the wife of the deceased which the officer got from the pant pocket of the deceased. He submits that in this background the said claim case was preferred by the appellants herein, however, the learned Tribunal has been pleased to reject the same on the premises that the body in question was recovered from 0.5 kilometers of Madhupur Station. He submits that the valid MST ticket was found from the possession of the deceased and merely because the body has been recovered after the Madhupur railway station cannot be a ground to reject the claim of the appellants. He further elaborates his argument by way of submitting that in the DRM report, the MST is said to be recovered from the body of the deceased and in the final report arising out of the UD case it has been further disclosed that the death occurred due to falling from

train. He submits in view of these documents the death is proved due to accident in spite of that the learned Tribunal has not allowed the claim application. He further submits that the appellant No.2 appeared as AW – 1 before the learned Tribunal and has stated that the deceased was travelling in train on the strength of valid journey ticket MST which was recovered by the police and the same was admitted by respondent also. In cross examination, he has further stated that the place of incident was near outer signal which is situated near Madhupur railway station and also he has further stated that the deceased died due to falling from train. He submits that the learned Tribunal has wrongly rejected the claim of the appellants.

4. Learned counsel appearing for the respondent - railway submits that the learned Tribunal has rightly passed the said judgment as the body was recovered 0.5 kilometers after Madhupur. The alleged accident said to be occurred on the return journey of the deceased from Baidhyanath Dham, then it would have happened in the evening of 23.06.2022 at around 6:10 PM when the train passes Madhupur. However, the body was not detected till 9:10 hours of 24.06.2022. On this ground, she submits that the learned Tribunal has rightly given the finding and there is no illegality in the impugned order.

5. In view of the above submission of learned counsel appearing for the parties, the Court has gone through the materials on record including the trial court record which has been received.

The MST before the learned Tribunal has been marked as Exhibit-A.1, certified copy of fardbayan has been marked as Exhibit – A.2, FIR has been marked as Exhibit – A.3, Inquest Report has been marked as A.4, Final Report has been marked as A.5, Post-mortem Report has been marked as Exhibit – A.7. In the inquest report, the cause of death was found due to hemorrhage and shock due to rail traffic accident. In the enquiry report of DRM, it is clearly stated that during the personal search one railway ticket bearing MST No.11709042 Ex-MDP to BDME valid from 05.06.2022 to 04.07.2022 was found from the possession of deceased and the said was also verified by EO of the case which has come in the same report at paragraph No.8 which is found to be genuine. Thus, the MST ticket was also proved in light of the report of the railway itself and in view of that it is proved that the accident took place due to railway traffic condition.

6. Section 124A of the Railway Act, 1989 is based on principle of no-fault liability or strict liability and mere non-recovery of ticket from the possession of the deceased would not be a ground to deny the benefit under Section 124-A of the said Act. Burden of proof lies on the Railways to prove that deceased was not a Bonafide passenger and Railways failed to discharge its burden. No evidence has been adduced by the railways to suggest that the deceased was not a bona fide passenger and the case in hand the MACT ticket has already been recovered that has also been proved, thus the liability on behalf of the claimants has already been discharged. Further it is

well-known that a passenger may not be allowed to enter a platform if he does not possess platform ticket. It is an admitted fact that there will be Train Ticket Examiner for all the trains and the number of such TTE's will be more in on super-fast train and reserved compartments and that also happened in the local trains. It has been accepted by the learned Tribunal that the dead body was found 5 kilometers after Madhupur railway station and in view of that the deceased cannot be considered as bonafide passenger, as his journey ought to have been ended at Madhupur cannot be accepted in view of the fact as there is every possibility that the deceased might have slipped while getting down at the station and that his body might have been dragged to some distance from it, or that he mistakenly might not have got down at the station where he has to get down and after realizing the same could have tried to get down after crossing the same and as the untoward incident can be happened in several contingencies and in view of that the contention of the Railway is not being accepted by this Court. In the present case, there were no direct witnesses to the incident. It was not in dispute that the way in which the dead body was found would disclose that the death of the deceased occurred on account of an accident. No evidence was adduced by the Railways to show that the death of the deceased occurred due to any of the factors indicated under the proviso of Section 124-A of the Railways Act, 1989. The Railways failed to examine the driver of any train to prove that the deceased was hit by a train and fell by the side of

the track merely because the body was recovered 0.5 KM after Madhupur station cannot be a ground. In view of the aforesaid reasons to reject the claim of the claimants particularly when factors indicated under the proviso of Section 124A of the Indian Railway Act, 1989 it has not been proved by the railway. Further in the case of ***Union of India versus Rina Devi reported in 2019 (3) SCC 72***, it has been held by Hon'ble Supreme Court that mere absence of ticket with such injured or deceased will not negative the claim that he was not a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found."

7. So far the case in hand is concerned, the MACT ticket in light of the DRM report has already been proved which has been further supported by AW – 1 and in light of inquest report the accident is due to railway traffic condition, as such the accident is proved due to falling from the train.

8. In view of the above facts, reasons and analysis, the finding of the Tribunal will not survive, as such the judgment dated 13.02.2024 passed by learned Railway Claims Tribunal, Ranchi Bench, Ranchi in Case No.OA(IIU)/RNC/46/2023 is hereby set aside.

9. The claimants shall be entitled for a compensation of Rs.8,00,000/- with interest of 7.5% per annum from the date of

accident as has been held by Hon'ble Supreme Court in the case of
Union of India versus Rina Devi reported in 2019 (3) SCC
72.

10. This appeal is allowed in above terms and disposed of.

11. Respondent – Railway will pay the said compensation within
eight weeks from the date of receipt/production of copy of this
order.

12. Let the trial court record be sent back to the learned
Tribunal forthwith.

(Sanjay Kumar Dwivedi, J.)

Sangam/

A.F.R.